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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,563	10/20/2003	Simon Cohen	134/124	2396
7590	10/03/2006		EXAMINER MAI, TRI M	
Averill & Varn 8244 Painter Ave. Whittier, CA 90602			ART UNIT 3727	PAPER NUMBER

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/688,563	COHEN, SIMON
	Examiner	Art Unit
	Tri M. Mai	3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 12 and 13 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-11 and 14-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/20/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

1. Claims 12-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention as previously set forth.
2. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear whether claim 14 readable on the elected species. The elected species does not show the vertical structural member supporting the supporting rod. Applicant must address this matter and to withdraw the claim if this is the case.

3. Claims 1, 2, 7, and 15-16 are rejected under 35 U.S.C. 102 (b) as being anticipated by Macpherson (4219142). Macpherson teaches a carrier having a supporting rod having a bicycle seat receptacle contacting portion which has a narrow end and a wide end and the rod being supported by the frame so that the narrow end is oriented outwardly from the frame.

Regarding claim 2, note the frusto conical portion at 22.

Regarding claim 16, note the tightening via portion 72.

Regarding claim 7, note portion 23.

4. Claims 3-6 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Macpherson. It would have been obvious for one of ordinary skill in the art to provide an angle about 3 degrees to provide the desired angle for the conical portion.

Regarding claim 6, It would have been obvious for one of ordinary skill in the art to provide the receptacle contacting portion about six inches to provide the desired length for the engaging device.

5. Claims 8-10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Macpherson in view of Peterson (5497927). Peterson teaches that it is known in the art to provide bicycle carrier frame supported by a tow hitch receptacle. It would have been obvious to one of ordinary skill in the art to have the bicycle carrier frame supported by a tow hitch receptacle as taught by Peterson to provide the desired location for attaching the carrier frame.

Regarding claims 9-10, note the horizontal structural member 20 supporting a plurality of bicycle supporting frame.

Regarding claim 14, note the vertical structural member 18 supports a supporting rod via the horizontal member 20.

6. Claim 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Macpherson rejection as set forth in paragraph 5, and further in view of Sickler (5377886). Sickler teaches that it is known in the art to provide a collar for attaching a bicycle carrier frame using a collar at 25 as shown in Fig. 2. It would have been obvious to one of ordinary skill in the art to provide a collar as taught by Sickler to provide an alternative means for attaching the frame to the vehicle.

7. Claims 1, 8, and 15 are rejected under 35 U.S.C. 102 (b) as being anticipated by Haagstad (6616022).

Haagstad teaches a device having a supporting rod having a bicycle seat receptacle contacting portion which has a narrow end and a wide end and the rod being supported by the frame so that the narrow end is oriented outwardly from the frame.

8. Claims 8-10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naastad '022 in view of Peterson. Naastad teaches a slanted portion 14 instead of a generally vertical structure. It would have been obvious to one of ordinary skill in the art to provide It

would have been obvious to one of ordinary skill in the art to provide a vertical structure as taught by Peterson, note portion 18, to provide an alternate support means.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Naastad '022 rejection, as set forth in paragraph 8, and further in view of either Sickler or Low et al. (5871131). Either Sickler or Low teaches that it is known in the art to use a collar for attaching to a square tube, portion 22 in Sickler and 33 in Low. It would have been obvious to one of ordinary skill in the art to use a collar for securing the protrusions to the horizontal member as taught by either Sickler or Low to provide an alternative attaching means.

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haagstad in view of Naastad (20040065707) or Macpherson. It would have been obvious to one of ordinary skill in the art to provide a receptacle contacting portion having a narrowed portion as taught by either Naastad '707 or Macpherson to enable one to insert the bicycle easily.

11. Claims 1-8, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sickler in view of Macpherson. Sickler teaches a carrier frame supported by a tow hitch receptacle. Sickler meets all claimed limitations except for the means for carrying the bicycle comprising a protruding rod supporting the bicycle seat. Macpherson teaches that it is known in the art to provide a means for carrying the bicycle comprising a protruding rod supporting the bicycle seat. It would have been obvious to one of ordinary skill in the art to provide the protruding rods in place of the portions 16 and 12 to provide an alternative means for supporting the bicycle.

12. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sickler rejection, as set forth in paragraph 11, and further in view of Peterson. Sickler teaches a slanted

portion adjacent 20 instead of a generally vertical structure. Peterson teaches that it is known in the art to provide a vertical structure 18. It would have been obvious to one of ordinary skill in the art to provide a vertical structure as taught by Peterson to provide an alternate support means.

13. Claims 1, 8-10, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Peters (5330084). Peters teaches a bicycle support rack with protrusions 26 and 27. Note that it is an intended use to have the bicycle supported by the protrusions. The claim does not impart any structure over the structure shown by Peters.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tri M. Mai



TRI M. MAI
PRIMARY EXAMINER